

**REMARKS**

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, Claims 1-21 were pending in the application, of which Claims 1 and 14 are independent. In the Office Action dated August 14, 2003, Claims 1, 3-4, 8, and 10-11 were rejected under 35 U.S.C. §102(b), and Claims 2, 14, 15-17, 19, and 21 were rejected under 35 U.S.C. §103(a). Claims 5-7, 9, 12-13, 18, and 20 were objected to, but were deemed allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Following this response, Claims 1-21 remain in this application. Applicants hereby address the Examiner's rejections in turn.

I. Rejection of Claims 1-4, 8, and 10-11 and Objection to Claims 5-7, 9, and 12-13

In the Office Action dated August 14, 2003, the Examiner rejected independent Claim 1 and dependent Claims 3-4, 8, and 10-11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,550,976 ("*Cooper*") and rejected dependent Claim 2 under 35 U.S.C. § 103(a) as being unpatentable over *Cooper* in view of WO 02/12943 A1 ("*Sutehall*"). Applicants respectfully traverse these rejections at least because *Cooper* does not disclose or suggest the subject matter of independent Claim 1.

Amended Claim 1 is patentably distinguishable over the cited art in that it recites, for example, a cable, comprising a central strength member, a buffer tube stranded around the central strength member, the buffer tube loosely housing at least one optical fiber, a first conduit configured to receive at least one first blown optical fiber

subsequent to an installation of the cable and positioned external to the central strength member, and an outer jacket positioned at the periphery of the cable.

In contrast, *Cooper* at least does not teach or suggest a cable comprising a first conduit configured to receive a blown optical fiber subsequent to an installation of the cable. Instead, *Cooper* discloses a cable including a “dummy” tube that can either be solid or hollow. The “dummy” tube functions as a placeholder to ensure that a cable having less than a full complement of fibers maintains its symmetry. (See col. 2, lines 37-40.) Although the disclosed “dummy” tube may contain an optical fiber, it is not configured to receive a blown optical fiber subsequent to an installation of the cable. Indeed, while the “dummy” tube may be hollow to save cost over a solid dummy, *Cooper* lacks any disclosure or teaching to configure the dummy to receive a blown fiber. Accordingly, independent Claim 1 patentably distinguishes the present invention over the cited art, and Applicants respectfully request withdrawal of this rejection of Claim 1.

Dependent Claims 2-4, 8, and 10-11 are also allowable at least for the reasons above regarding independent Claim 1, and by virtue of their dependency upon independent Claim 1. Accordingly, Applicants respectfully request withdrawal of this rejection of dependent Claims 2-4, 8, and 10-11.

Moreover, Applicants respectfully request withdrawal of the objection to dependent Claims 5-7, 9, and 12-13 at least for the reasons above regarding independent Claim 1, and by virtue of their dependency upon independent Claim 1.

II. Rejection of Claims 14-17, 19, and 21 and Objection to Claims 18 and 20

In the Office Action, the Examiner rejected independent Claim 14 and dependent Claims 16-17, 19, and 21 under 35 U.S.C. § 103(a) as being unpatentable over *Cooper* in view of EP 0 454 405 A2 ("*Sadler*") and rejected dependent Claim 15 under 35 U.S.C. § 103(a) as being unpatentable over *Cooper* in view of *Sadler* further in view of *Sutehall*. Applicants respectfully traverse these rejections.

Amended independent Claim 14 is patentably distinguishable over the cited art in that it recites, for example, a cable, comprising a central strength member, a conductor of electrical energy stranded around the central strength member, a first conduit configured to receive at least one first blown optical fiber subsequent to an installation of the cable and positioned external to the central strength member, and an outer jacket positioned at the periphery of the cable.

As stated above, *Cooper* at least does not teach or suggest a cable comprising a first conduit configured to receive a blown optical fiber subsequent to an installation of the cable. Instead, it simply describes a "dummy" tube for maintaining symmetry in an optical fiber cable. Furthermore, *Sadler* does not overcome *Cooper*'s deficiencies. *Sadler* merely discloses a duct for receiving an "optical fibre member" by blowing. (See Abstract; col. 1, lines 11-20; and col. 2, lines 17-20.) As expressly defined in *Sadler*, an "optical fibre member" is a structure that itself houses optical fibers: "[t]he term 'optical fiber member' is used herein to cover both members which contain a single optical fibre and members which contain a plurality of optical fibres..." (*Id.* at col. 1, lines 2-5.) Such a duct, and its deficiencies are explained in the Background section of the present application. Consequently, like *Cooper*, *Sadler* at least does not teach or suggest a

cable comprising a first conduit configured to receive a blown optical fiber subsequent to an installation of the cable.

Combining *Cooper* with *Sadler* would not have led to the claimed invention because *Cooper* and *Sadler*, either individually or in reasonable combination, at least do not disclose or suggest a cable comprising a first conduit configured to receive at least one first blown optical fiber subsequent to an installation of the cable, as recited by amended Claim 14. Accordingly, independent Claim 14 patentably distinguishes the present invention over the cited art, and Applicants respectfully requests withdrawal of this rejection of Claim 14.

Dependent Claims 15-17, 19, and 21 are also allowable at least for the reasons above regarding independent Claim 14, and by virtue of their dependency upon independent Claim 14. Accordingly, Applicants respectfully request withdrawal of this rejection of dependent Claims 15-17, 19, and 21.

Moreover, Applicants respectfully request withdrawal of the objection to dependent Claims 18 and 20 at least for the reasons above regarding independent Claim 14, and by virtue of their dependency upon independent Claim 18 and 20.

### III. Conclusion

In view of the foregoing remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other

elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: October 31, 2003

By: 

D. Kent Stier  
Reg. No. 50,640  
(404) 653-6559

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com